THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6113 OF 2006

DATED: 27-03-2006

BETWEEN

M. Uma Devi,

W/o. Late M.G.K. Sagar,

R/o. Padmaraonagar,

Secunderabad.

...PETITIONER

AND

State of AP, rep. by its Principal Secretary,
Municipal & Urban Development Department,

Secretariat, Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in proceeding with the process of demolition of building premises bearing H.No.14-1-61 (1,2) situated at Ward No.14, High School Road, Munthavari Centre, Chirala, Prakasam District without issuing any notice and without paying any compensation as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner of the aforementioned premises as the said property fell to share of her husband, who died on 03.05.2002, in the partition took place among the joint family members through a registered partition deed dated 25.10.1993 and since then she has been regularly paying property to

the respondent municipality.

While so, the learned counsel further submits that on 24.03.2006 the respondent authorities visited the premises of the petitioner and marked the building and stated that they are going to demolish the building within three days to an extent of 40 feet.

The learned counsel further submits that the respondents earmarked the structures belonging to the petitioner and proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away without following due process of law either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the buildings or structures as per the approved plan only.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish or take away any portion of the property of the petitioner and not to dispossess her without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 27, 2006

DSK